

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Giovanni Moss, Director, Housing and Community Development,
954-797-1226

PREPARED BY: Burton Spiwak, Programs Specialist, Housing and Community
Development

SUBJECT: Resolution authorizing the Mayor to execute the Interlocal
Agreement with Broward County for the State Housing Initiatives Partnerships (SHIP)
Program

AFFECTED DISTRICT: Town Wide

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE INTERLOCAL AGREEMENT WITH BROWARD COUNTY FOR THE ESTABLISHMENT AND ADMINISTRATION OF A JOINT LOCAL HOUSING ASSISTANCE PROGRAM FOR 2010/11 TO 2012/13; APPROVING DAVIE'S HOUSING DELIVERY GOALS/SHIP BUDGET STRATEGIES FOR 2010/11; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: In 1997, the Town of Davie became an "entitlement" recipient of State Housing Initiatives Partnership (SHIP) Grant funds. On April 1, 1998, the Town Council unanimously adopted the Town's Affordable Housing Incentive Strategy; and, the Broward County Local Housing Assistance Plan (LHAP) was amended to include the Town of Davie. Over the years the Town's Incentive Strategy has been enhanced and strengthened to encourage development of urgently needed workforce housing.

Although Davie falls under the County's LHAP, the Town determines how it's proportionate share of SHIP grant funds are allocated, and retains oversight of the Town's housing programs and initiatives. Every three (3) years, a new LHAP must be prepared and submitted to the State of Florida; and, a new Interlocal Agreement must be developed for implementation of the various SHIP programs. The local budgets are adopted annually. No budget was adopted for the 2009/10 SHIP Program Year as the State Legislature pulled all the Housing Trust Funds during its session from March to May 2009.

PREVIOUS ACTIONS: Resolution R-2007-93, Approved on April 4, 2007 adopting SHIP LHAP, Interlocal Agreement and 2007/08 SHIP Budget.

CONCURRENCES: Receipt of \$773,000 +/- in SHIP Grant funds from the State of Florida.

FISCAL IMPACT: Yes

Has request been budgeted? Yes

If yes, expected cost: \$

Account name and number:

If no, amount needed: \$

What account name and number will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S): Motion to approve resolution

Attachment(s): Resolution, Interlocal Agreement and 2010/11 SHIP Budget

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE INTERLOCAL AGREEMENT WITH BROWARD COUNTY FOR THE ESTABLISHMENT AND ADMINISTRATION OF A JOINT LOCAL HOUSING ASSISTANCE PROGRAM FOR 2010/11 TO 2012/13; APPROVING DAVIE'S HOUSING DELIVERY GOALS/SHIP BUDGET STRATEGIES FOR 2010/11; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 1997 the Town of Davie became an "entitlement" recipient under the

State Housing Initiatives Partnership (SHIP) Program, which requires the adoption of a Local

Housing Assistance Plan (LHAP); and

WHEREAS, for the purpose of implementing these SHIP Program Funds, the Broward County Local Housing Assistance Plan (LHAP) was amended to include the Town of Davie; and

WHEREAS, every three years, a new LHAP must be adopted, and the Interlocal Agreement with Broward County must be renewed; and,

WHEREAS, the new LHAP for FY 2010/11 to 2012/13 which incorporates the Town's FY 2010/11 SHIP Budget Strategies, and the new Interlocal Agreement for 2010/11 to 2012/13 has been prepared by Broward County for approval by the Town of Davie; and

WHEREAS, the Town's Housing and Community Development Department recommends that Davie continue its positive contractual relationship with the Broward County Housing and Community Development Division; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1: The Local Housing Assistance Plan (LHAP) for 2010/11 to 2012/13 incorporates the Town's Minimum and Average SHIP Costs and the FY 2010/11 Budget Strategies, herewith included is adopted.

SECTION 2: The Interlocal Agreement with Broward County for the establishment and administration of a Joint Local Housing Assistance Program (LHAP) for 2010/11 to 2012/13, is hereby approved by this Council.

SECTION 3: Findings as to Administrative Costs. The Town of Davie hereby finds that the costs of administering the Program shall exceed five percent (5%) of the SHIP Program funds; and, pursuant to the Act, the Town hereby authorizes expenditures of no more than ten percent (10%) of Program funds for implementation of the SHIP Program.

SECTION 4. Establishment of Average and Maximum Costs. Pursuant to the SHIP Act, the Town hereby establishes the following "maximum awards" and "average costs" under the 2010/11 to 2012/13 LHAP:

<u>SHIP Program Strategy</u>	<u>Average</u>	<u>Maximum</u>
Home Repair (Rehab) Program	\$30,000	\$40,000
Barrier Free (Rehab) Program	\$35,000	\$40,000
Purchase Assistance	\$30,000	\$60,000
New Const. - Single-Family	\$40,000	\$80,000
New Const. - Multi-Family	\$35,000	\$60,000
Develop. Assistance/Impact Fees	\$15,000	\$25,000

SECTION 5. Budget Strategies and Budget. The following projected budgets and strategies are hereby adopted for the Town's FY 2010/11 SHIP allocation.

<u>SHIP Program Strategy</u>	<u>FY 2010/11</u>
Home Repair Program (Rehab)	\$ 325,700
Barrier-Free Program	\$ 160,000
Purchase Assistance - Town-wide	\$ 160,000
 New Const. Single Family	 \$ 0
New Const. Multi-Family	\$ 0
Develop. Assistance/Impact Fees	\$ 50,000
County Admin & H/O Counseling	\$ 54,110
Town Administration	<u>\$ 23,190</u>

Total

\$ 773,000¹

SECTION 5. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2010

MAYOR/COUNCILMEMBER
ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2010

¹ It should be noted that this figure is subject to change based on Documentary Surtax Allocations; and, changes can be made to this budget administratively by the Town's Housing & Community Development Director, as long as the overall budget categories are not changed.

INTERLOCAL AGREEMENT

Between

BROWARD COUNTY

And

TOWN OF DAVIE

For

PREPARATION, IMPLEMENTATION AND ADMINISTRATION OF THE STATE
HOUSING INITIATIVE PARTNERSHIP FOR PROGRAM YEARS, 2010/2011,
2011/2012 AND 2012/2013 FOR THE TOWN OF DAVIE

**INTERLOCAL AGREEMENT FOR THE
ADMINISTRATION OF THE JOINT LOCAL HOUSING ASSISTANCE
PROGRAM**

This INTERLOCAL AGREEMENT ("Agreement") is made and entered into by and between BROWARD COUNTY, a political subdivision of the State of Florida (the "County") and the Town of Davie, a Florida municipal corporation ("Town"), collectively referred to as "the Parties."

W I T N E S S E T H

WHEREAS, the State Housing Initiative Partnership Act, §§ 420-907 - 420-9079, Fla. Stat. ("Act") provides for the establishment of local housing assistance programs; and

WHEREAS, the Parties wish to provide for the housing needs of their citizens, and to promote the efficient location, design and provision of affordable housing;

WHEREAS, the Act encourages the establishment of joint local housing assistance programs, and provides for the entering into interlocal agreements for the establishment and implementation of such joint programs;

WHEREAS, the Parties wish to establish a joint local housing assistance program for the purpose of establishing and implementing a more efficient local housing assistance program;

WHEREAS, the Act authorizes monies to be distributed to approved counties and eligible municipalities within the County pursuant to an interlocal agreement; and

WHEREAS, BROWARD COUNTY is an approved county and the Town is an eligible municipality within Broward County, Florida; and

WHEREAS, the Parties desire to distribute monies available under the Act pursuant to this interlocal Agreement and to provide for the County's implementation and administration of the Act's requirements; NOW, THEREFORE,

FOR AND IN CONSIDERATION of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. Definitions. For the purposes of this Agreement, the definitions contained in the Act, and Chapter 67-37, Florida Administrative Code, as they may be amended from time to time, are adopted by reference.

2. Establishment of Joint Local Housing Assistance Program. The Parties agree to establish a joint local housing assistance program ("Program"), pursuant to the requirements of the Act, which shall be established for a three (3) year period, all subject to the provisions of §§ 420.907 - 420.9079, Fla. Stat., and other applicable law. The program shall consist of establishing a Local Housing Assistance Plan (LHAP) and the Implementation and Administration of the Program. The LHAP shall be jointly developed by the parties and shall be adopted and amended only by resolution of each of the parties pursuant to the provisions of the Act.

3. County, through its Housing Finance and Community Development Division shall be solely responsible for the administration and implementation of the Program in accordance with the provisions of the Act.

3.1 County Provision of Performance Reports. County shall provide the Town with one Performance Report per Program per fiscal year. The Performance Report shall be the annual reporting materials required pursuant to the Act. The Performance Report shall, at a minimum, provide the Town with the following information: Population data for those assisted including: income level, age, family size, race, and any special needs populations; amount of funds expended within the Town, by category with the Town Program; and balance of funds remaining to be expended within the Town.

3.2 County shall file a single annual report for all Program activities, in all applicable governmental jurisdictions, pursuant to the requirements of the Act's implementing regulations.

3.3 County shall establish, or cause to be established based on input from the Town, all of the administrative criteria or requirements necessary or desirable to implement the Act, including without limitation, the following: (i) maximum award schedules; (ii) qualification systems for applications received pursuant to the Program activities; (iii) eligibility criteria for Program participants; (iv) advertising requirements for the availability of funds; and (v) definitions of affordable housing. The parties expressly agree that the administrative criteria or requirements to be established may, as applicable or appropriate, vary based on either the nature of the Program element or strategy to be addressed, or the requirements of the local jurisdiction, all of which shall be subject to the provisions of the Act.

3.4 In the event of disputes between the homeowner and the County's Sub-grantee/contractor, the Town shall intervene with the intent to settle the dispute between all parties in

accordance with the Town's approved Local Housing Assistance Plan, and inform the County in writing of the resolution.

4. Establishment and Administration of Trust Fund. In order to implement and administer the Act, the County shall establish a specially designated and dedicated Affordable Housing Assistance Trust Fund ("Affordable Housing Assistance Trust Fund") within the official fiscal and accounting records of the County. All monies received from the state pursuant to the Act, and any funds received or budgeted to provide funding for the Program, shall be deposited into the Affordable Housing Assistance Trust Fund.

4.1 Restrictions on use of Funds. Pursuant to the Act's requirements, expenditures other than for the administration and implementation of the Program shall not be made from the Affordable Housing Assistance Trust Fund.

4.2 Audit of Housing Trust Fund. The County agrees that the Affordable Housing Assistance Trust Fund shall be separately stated as a special revenue fund in the County's audited financial statements. Copies of such audited financial statements shall, consistently with the requirements of the Act, be forwarded to the Florida Housing Finance Corporation as soon as such statements are available. The parties agree to pay their pro rata share of the cost of the audit using Town and County Program administrative dollars. The County shall provide the Town a copy of this audit.

5. Distribution of Funds Available Pursuant to the Act. All monies available to the Town and the County pursuant to the Act shall be distributed to the County as provided in the Act.

5.1 Directions to Corporation. The Town and the County direct the Florida Housing Finance Corporation (the "Corporation") to distribute the monies pursuant to the Act in accordance with this Agreement, and authorize the Corporation to rely on the parties' stated intent and authority to execute this Agreement.

5.2 Deposit of Funds. The monies to be distributed by the Corporation will be deposited in the following Depository Account: Broward County Affordable Housing Assistance Trust Fund.

5.3 The Corporation shall be notified by the parties of any change in the status of the Affordable Housing Assistance Trust Fund, or the distribution agreement between them.

5.4 Broward County shall administer and distribute the SHIP Program funding according to the allocation schedule calculated and determined by

the parties and approved by the Corporation. Broward County shall collect a seven percent (7%) administrative fee and the Town of Davie shall collect a three percent (3%) administrative fee for administration of SHIP Program funds.

5.5 Broward County shall utilize good faith efforts to recapture SHIP Program funding. Broward County shall place all recaptured and recycled SHIP funds in the Affordable Housing Assistance Trust Fund. Recaptured and recycled SHIP funding shall be allocated to SHIP strategies as collectively determined by the parties and shall be restricted for expenditure within the boundaries of the local governmental jurisdiction from which the recaptured or recycled funds originated.

6. County will ensure that SHIP funds disbursed from the Affordable Housing Assistance Trust Fund are at all times expended in accordance with the Act's requirements, provide income verification and certification for all applicants for SHIP funding assistance, monitor and determine applicant eligibility and the amount of SHIP funding assistance pursuant to the Act's guidelines, and coordinate all administrative functions between the Parties. County shall provide the Town with a monthly tracking log evidencing each strategy's expenditure made by County on the Town's behalf.

7. Modification of Agreement. This Agreement may be modified by resolution(s) of the parties adopting a written amendment of this Agreement. As required by the Act, or other applicable law, amendments to the program or this Agreement shall not become effective until following review and approval required by the Act.

8. Term and Termination of Agreement

8.1 Term of Agreement. Unless earlier terminated pursuant to other provisions of this Agreement, the term of this Agreement shall run concurrently with the distribution of monies pursuant to the Act. For so long as this Agreement remains effective, the Parties agree that they will not do anything to jeopardize the other party's right to receive its distributions pursuant to the Act.

8.2 Termination of Agreement. At any time during the term of this Agreement, the Town or the County may provide one hundred eighty (180) calendar days advance written notice of the termination of this Agreement. In the event of a notice of termination, this Agreement shall terminate and be of no further force or effect as to either party on the one hundred eightieth (180) calendar day following the non-noticing party's receipt of the termination notice; provided, however, that all Program funds encumbered by the County prior to the date of termination shall continue to be payable to the County pursuant to the terms of such

encumbrance(s). In the event of a termination, the Parties agree to mutually advise the Corporation of the termination of this Agreement, and to provide for the continued orderly payment of those funds to be distributed pursuant to the Act necessary to fulfill outstanding encumbrances, if any. In the event of a termination of this Agreement, the distribution and allocation of unencumbered funds to the County and the Town shall be pursuant to the requirements of the Act.

9. Interpretation. The Parties acknowledge that they have sought and received whatever competent advice and counsel necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one party than the other. The headings contained in this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement.

10. Notices. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR BROWARD COUNTY:

Director
Housing Finance & Community Development
110 N.E. Third Street, Suite 300
Ft. Lauderdale, Florida 33301

With copy to:

Office of County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, FL 33301

FOR THE TOWN OF DAVIE

Town of Davie, Director
Housing & Community Development
4700 SW 64th Avenue,
Boulevard,
Suite D
Davie, Florida 33314

With copy to:

Mr. John C. Rayson
Law Offices of John C. Rayson
2400 East Oakland Park

Fort Lauderdale, Florida 33306

11. Effective Date. The effective date of this Agreement shall be the date upon which the parties have approved this Agreement.

12. Liability. Nothing is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract. All parties are state agencies or political subdivisions of the State of Florida as defined in Section 768.28, Florida Statutes, and agree to be fully responsible for acts and omissions of its agents or employees to the extent permitted by law.

13. Insurance. The Parties shall each individually maintain throughout the term of this Agreement any and all applicable insurance required by Florida law for governmental entities and each shall furnish to the other party written verification of such insurance upon request of the party.

14. LIMITATIONS OF AGREEMENT. It is not the intent of this Agreement to change the jurisdiction of the Parties in any manner except as specifically provided. All other policies, rules, regulations and ordinances of the Parties will continue to apply as to properties located within the jurisdictional boundaries of each party.

15. FILING OF INTERLOCAL AGREEMENT. Pursuant to the provisions of Section 163.01(11), Florida Statutes (2009), this Agreement shall be filed with the Clerk of the Circuit Court in and for Broward County, Florida.

16. Independent Contractors. Persons employed by either party in the performance of services and functions pursuant to this Agreement shall not be deemed to be employees of the other party nor shall they have any claim to pension, worker's compensation, civil service or other employee rights or privileges granted by the other party to its officers and employees. No partnership, joint venture, or other joint relationship is created hereby other than as provided for herein. COUNTY does not extend to TOWN or TOWN's agents any authority of any kind to bind COUNTY in any respect whatsoever.

17. Third Party Beneficiary. Neither TOWN nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

18. Assignment. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party. In addition, TOWN and COUNTY shall not subcontract any portion of the work required by this Agreement, unless permitted by the Act and then only with the prior written consent of the other party.

19. County Business Enterprise (CBE) Program. COUNTY has established a policy relating to County Business Enterprise ("CBE") Program's participation in all COUNTY contracts. Although this Agreement does not have assigned CBE goals, the parties are encouraged to utilize eligible local County business enterprises, where applicable.

20. Waiver And Materiality. COUNTY and TOWN agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Either party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

21. Compliance With Laws. TOWN and COUNTY shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

22. Severability. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or TOWN elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

23. Governing Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit and venue for litigation arising out of this Agreement shall be in such state courts. By entering into this Agreement, TOWN and COUNTY hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement.

24. Merger. This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning this Agreement that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

25. Originals. This Agreement may be executed in three (3) or more counterparts, each of which shall be deemed to be an original.

-remainder of page left intentionally blank-

IN WITNESS WHEREOF, the parties have made and execute Agreement on the respective dates under each signature: Broward County through its Board of County Commissioners, signing by and through Mayor or Vice Mayor, authorized to execute same by Board action of ____ day of _____, 2010, by the Town of Davie, signing through its Mayor, authorized to execute same by action of the Town Council on the _____ day of _____, 2010.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY

COMMISSIONERS

By

County Administrator and Ex-Officio
Clerk of the Board of County Commissioners
of Broward County, Florida

Ken Keechl, Mayor

2010.

_____ day of _____,

Attorney

Approved as to form by Office of
County Attorney, Broward
County, Florida
JEFFREY J. NEWTON, County

Governmental Center, Suite #423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By:

Jose Gonzalez, Esq.
Deputy County Attorney

Dated: _____

INTERLOCAL AGREEMENT FOR THE ADMINISTRATION OF THE TOWN OF
DAVIE LOCAL HOUSING ASSISTANCE PLAN BY BROWARD COUNTY
THROUGH ITS BOARD OF COUNTY COMMISSIONERS.

ATTEST:

TOWN OF DAVIE, FLORIDA

Russell Muniz, Town Clerk

Judy Paul, Mayor

Approved as to form:

Town Attorney